



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

MEMORANDUM

TO: Service List in Net Metering, D.P.U. 08-75
Via Email and First Class Mail

FROM: Shaela McNulty Collins, Hearing Officer

DATE: October 17, 2008

RE: Agenda and Topics for Technical Conference To Be Held on October 30, 2008
and Clarification of Filing Requirements

cc: Mary Cottrell, Secretary

I. INTRODUCTION

On October 3, 2008, the Department of Public Utilities ("Department") stated that it would conduct a technical conference on October 30, 2008, to assist in the development of rules and regulations on net metering pursuant to Chapter 169 of the Acts of 2008, an Act Relative to Green Communities ("Green Communities Act"). The Department also solicited requests to participate in the technical conference. The Department will hold the technical conference on **October 30, 2008, at 1:00 p.m.**, in the **Division of Insurance Hearing Room A, Fifth Floor**, One South Station, Boston, MA. Any person interested in commenting may submit written comments to the Department at the time of the technical conference or, alternatively, no later than the close of business (5:00 p.m.) on **Thursday, October 30, 2008**. In anticipation of the technical conference, the Department presents the following information concerning the format, agenda and topics for discussion.

II. FORMAT

It is the Department's expectation that the technical conference will provide an informal forum in which to discuss the topics set forth below. The Department expects to present these topics and allow interested persons to provide comments on the topics and related issues. The Department asks each interested person to designate a primary individual to participate in the discussion of each topic. A stenographic record of the technical sessions will not be made.

III. AGENDA

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|-----------|----------------------------------------------|
| 1:00 P.M. | Introduction and ground rules |
| 1:15 P.M. | One Percent Limit on Net Metering Facilities |
| 2:00 P.M. | Ownership Issues |
| 2:45 P.M. | Neighborhood Net Metering |
| 4:15 P.M. | Other Issues |
| 5:00 P.M. | Adjourn |

IV. TOPICS

A. One Percent Limit on Net Metering Facilities

The Green Communities Act limits the total capacity of net metering in a distribution company's service territory to one percent of the distribution company's peak load.

G.L. c. 164, § 139(f). This limit raises issues related to how to process and queue net metering requests.

- (1) How, if at all, should this one percent be distributed among Class I, Class II, and Class III? Should the Department specify allocations of the one percent limit to Classes I, II, and III, or to agricultural, solar, or wind, net metering facilities? What would be the rationale for these allocations or carve outs? Are particular classes/resources more dependent than others on net metering for financial viability and, if so, why?
- (2) Should existing net metering customers operating pursuant to 220 C.M.R. § 11.04(7)(c) automatically be entitled to net metering pursuant to the Green Communities Act? Should there be any distinction between new and existing facilities for net metering purposes?
- (3) Should the Department establish uniform guidelines regarding how the queue of facilities awaiting net metering interconnection is determined? Should it be a first-come, first-served process?
- (4) There may be development projects that move forward with financing or investment based on an assumption of net metering credits. Is there a rationale

(and method) that could qualify net metering facilities prior to interconnection and operation?

B. Ownership Issues

The Green Communities Act prohibits “an electric utility, generation company, aggregator, supplier, energy marketer, or energy broker” (within the meaning of sections 1 and 1F of chapter 164) from being a net metering facility or customer. G.L. c. 164, § 139(e). Section 1 of chapter 164 defines the terms “electric *company*,” “generation company,” “aggregator,” and “supplier.” Section 1F of chapter 164 uses the terms “energy marketer” and “energy broker,” but does not define them. The Department licenses “competitive suppliers” and “*electricity* brokers” pursuant to 220 C.M.R. § 11.00, in which both terms are defined.

- (1) Are the meanings of the terms “an electric utility, generation company, aggregator, supplier, energy marketer, or energy broker” sufficiently clear to allow a determination of whether a prospective net metering facility or customer falls within G.L. c. 164, § 139(e)? For example, the terms electric utility, energy marketer, and energy broker are not defined in sections 1 or 1F of chapter 164. How should these terms be defined? Should any of these terms be further clarified? If so, how?
- (2) Is third-party ownership of a net metering facility permissible under the Green Communities Act in light of the prohibition of G.L. c. 164, § 139(e)? For example, the Massachusetts Technology Collaborative is administering a program entitled “Commonwealth Solar” in coordination with the Massachusetts Department of Energy Resources, which involves the installation of photovoltaic (“PV”) facilities that generate electricity using solar power. These projects may involve agreements between third-party owners and customers in which the third-party owns and operates the PV facility. Does such a business model subject the net metering facility or customer to the prohibition of G.L. c. 164, § 139(e)?

C. Neighborhood Net Metering

1. Defining Neighborhood

The Green Communities Act defines the term “neighborhood” as “a geographic area including and limited to a unique community of interests that is recognized as such by residents of such area and which, in addition to residential and undeveloped properties, may encompass commercial properties.” G.L. c. 164, § 138. The Green Communities Act specifically

requires the Department to define further the term “neighborhood” and limit the number of customers that the neighborhood net metering facilities may designate to receive neighborhood net metering credits. Id. at § 140(b).

- (1) Should the definition of “neighborhood” be limited to a contiguous geographic area of some specified parameters? If so, what parameters should apply? Would it be sufficient to simply limit a neighborhood to the service territory of a single distribution company and a single ISO-NE load zone?
- (2) What would satisfy the requirement that a “neighborhood” include “a unique community of interests that is recognized as such by residents of such area”? For example, should there be a presumption that residents of a city or town satisfy this requirement? Could this presumption be expanded to allow the combination of more than one municipality (e.g. in sparsely populated areas)?
- (3) Should the Department limit the number of customers that can participate in a neighborhood net metering facility? Should there be a limit on the number of customers that can receive neighborhood net metering credits? If so, what should the limits be and why?
- (4) Can nonresidential customers participate in the neighborhood net metering facility?

2. Metering

The Green Communities Act distinguishes between the manner in which excess generation is determined for (i) Class I, II, or III net metering facilities and (ii) neighborhood net metering facilities. For Class I, II, or III net metering facilities, excess generation is calculated as the difference between the electricity generated by the facility in a billing period and the *customer’s* kilowatt-hour usage during the billing period. G.L. c. 164, § 139. In contrast, for neighborhood net metering facilities, excess generation is calculated as the difference between the electricity generated by the facility in a billing period and the *facility’s* kilowatt-hour usage during the billing period. G.L. c. 164, § 140.

- (1) How is neighborhood net metering different from Class I, II or III net metering? Does a neighborhood net metering facility require a separate meter, which is independent from the meter of any of the neighborhood net metering customers? Should the Department’s regulations require that neighborhood net metering facilities be separately metered?

- (2) Does the output from the neighborhood net metering facility flow directly into the distribution company's system?
- (3) If so, would the excess generation be allocated to the facility's customers in the form of credits? If yes, would it be fair to say that neighborhood net metering is more of a virtual or accounting exercise than an actual net metering event?

3. Ownership Issues

The Green Communities Act provides that only those customers "having an ownership interest in the neighborhood net metering facility" may receive excess credits. G.L. c. 164, § 140(a). The Green Communities Act also defines a neighborhood net metering facility as "a Class I, II, or III net metering facility that: (i) is owned by, or serves the energy needs of, a group of 10 or more residential customers that resides in a single neighborhood and is served by a single distribution company; and (ii) is located within the same neighborhood as the customers that own or are served by the facility." G.L. c. 164, § 138.

- (1) What constitutes a sufficient ownership interest to be entitled to neighborhood net metering credits?
- (2) What information is necessary to allow a determination of whether a neighborhood net metering facility is owned by, or serves the energy needs of, at least ten residential customers?

D. Other issues

1. Allocation of Net Metering Credits

The Green Communities Act allows a Class I or Class II wind or solar net metering facility and a Class III net metering facility to designate customers to receive net metering credits. G.L. c. 164, §§ 139(a)(1), 139(b)(1). The Green Communities Act requires written notice identifying these customers in a form the distribution company shall reasonably require. Id. In the case of a Class III net metering facility, however, a distribution company may elect not to allocate net metering credits and instead may purchase them from the facility at specified rates. Id. at § 139(b)(1).

- (1) Should the Department limit the number of customers who may be designated to receive net metering credits from a single net metering facility? If so, what should the limit be and why? For example, is a limitation necessary to mitigate transactions costs that distribution companies may incur?

- (2) Under the Green Communities Act, can or should a Class I or II agricultural net metering facility be allowed to designate customers to receive net metering credits?
- (3) Should the Department establish criteria governing the circumstances under which the distribution company may buy credits rather than allocate them?
- (4) Should the Department establish uniform requirements applicable to all distribution companies for identifying customers who are designated to receive credits?
- (5) Does the net metering credit or purchase transaction constitute a retail sale of electricity subject to the jurisdiction of the Department or a wholesale sale of electricity subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”)? See Honeywell International, Inc., Order No. 08-388, at 10 (Oregon Pub. Util. Comm’n July 31, 2008) (suggesting FERC would not assert jurisdiction over a net metering transaction); In re Mid-America Company, 94 FERC ¶ 61,340, at 62,263 (2001) (stating that net sale to utility would require compliance with Federal Power Act if generator is not qualifying facility). If the net metering generator is a certified qualifying facility, is the applicable rate subject to the pricing provisions of 220 C.M.R. § 8.0?
- (6) Should net metering credits accrue interest?

2. Time-of-Use Net Metering

The Green Communities Act provides for the use of time-of-use billing periods for determining net metering credits “if applicable.” G.L. c. 164, § 138. Are there any issues specific to time-of-use meters that the Department must address in this proceeding?

IV. CLARIFICATION OF FILING REQUIREMENTS

Hard copies of all documents must be filed with Mary L. Cottrell, Secretary, Department of Public Utilities, One South Station, 2nd Floor, Boston, Massachusetts 02110. Please file one original and three (3) copies and direct one copy to Shaela Collins, Hearing Officer. In addition, all documents filed in this docket should be submitted to the Department in electronic format.¹ Documents will be available for public inspection at the Department's offices during business hours. Also, copies of documents that are filed electronically will be available on the Department's website: <http://www.mass.gov/dpu>. For additional information, please contact Shaela Collins, Hearing Officer, Department of Public Utilities, at (617) 305-3611.

¹ All documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dpu.efiling@state.ma.us and the hearing officer [Shaela.Collins@state.ma.us]; or (2) on a 3.5" disk or CD-ROM. The text of the e-mail, disk label, or CD-ROM must specify: (1) the docket number of the proceeding (D.P.U. 08-75); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. Text responses should be created in either Corel WordPerfect, Microsoft Word, or Adobe Acrobat (version 7 or higher). Data or spreadsheet responses should be compatible with Microsoft Excel (version 2000). The Department strongly encourages filers to avoid submitting scanned files but will accept them for posting when an alternative version does not exist in electronic format. In addition, if the petitioner, applicant, or any other participant has already filed a document relevant to this proceeding, such as the initial petition, application, or filing, without providing an electronic copy of that document, such entity is directed to do so in compliance with the above electronic filing requirements as soon as practicable.